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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,094	08/14/2001	Ophir Frieder	IIT-171	8509

7590 04/19/2007  
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EXAMINER
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KHOSHNOODI, NADIA

ART UNIT	PAPER NUMBER
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2137

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/19/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

09/929,094

Applicant(s)

FRIEDER ET AL.

Examiner

Nadia Khoshnoodi

Art Unit

2137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 1/8/2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 17-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 17-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

#### ***Response to Amendments/Arguments***

Claims 15-16 have been cancelled. Applicant's arguments, see Remarks (page 18, paragraphs 3-4; page 19, paragraphs 2-3; page 20, paragraphs 4; page 22, paragraphs 3-4; page 23, paragraphs 2; and page 24, paragraphs 1-2), filed 08/28/2006, with respect to the pending claims 1-14 and 17-29 have been fully considered and are persuasive. The previous prior art rejection regarding the pending claims has been withdrawn.

#### ***Election/Restrictions***

Applicant's election with traverse of the restriction requirement in the reply filed on 01/08/2007 is acknowledged. The traversal is on the ground(s) that all claims are directed to misuse detection. Upon closer inspection, Examiner finds Applicants traversal of the requirement persuasive and therefore withdraws the Elections/Restriction Requirement issued in the Office Action mailed 12/01/2006.

#### ***Allowable Subject Matter***

Claims 1-14 and 17-29 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-14 and 17-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 10:

In line 5, Applicants refer to “a user” and “a digital data gathering system” where each of these has already been previously introduced. Thus, it is unclear whether Applicants are introducing a new user or referring back to the previously introduced user. Similar reasoning (as “a user”) applies to “a digital data gathering system.”

In line 6, Applicants refer to a list of “at least some” of words/phrases. The term “some” is a relative term which renders the claim indefinite. The term “some” is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

As per claim 13:

In line 4, Applicants refer to “a user” where a user has already been previously introduced in the parent claim. Thus, it is unclear whether Applicants are introducing a new user or referring back to the previously introduced user.

As per claim 14:

In line 3, Applicants refer to “a user” where a user has already been previously introduced in the parent claim. Thus, it is unclear whether Applicants are introducing a new user or referring back to the previously introduced user.

In lines 10 and 12, Applicants refer to the results being “congruent” or “not congruent” with the structured data profile. The results being “congruent” or “not congruent” with a profile does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

As per claim 22:

In line 9, Applicants recite “...over a time sufficient to establish a confidence threshold...” This phrase is relative and thus renders the claim indefinite. The phrase is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

As per claim 23:

In lines 10-11, Applicants recite “...a large enough size...” This phrase is relative and thus renders the claim indefinite. The phrase is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

In line 12, Applicants recite “sufficient number” in reference to the retrieved documents. The term “sufficient” is a relative term which renders the claim indefinite. The term “sufficient” is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the

scope of the invention.

As per claim 24:

In lines 11-12, Applicants refer to “existing user-specific lexicon terms” where a “user-specific lexicon” is the terminology that was previously introduced. Thus, it is unclear whether Applicants intended to refer to the existing user-specific lexicon terms as defined by the user-specific lexicon that was previously introduced or if the existing user-specific lexicon terms are based off of the created user profile.

As per claims 26-27:

In line 3 of each of these claims, Applicants recite “identifying structured data sources that can be used to...” It has been held that the recitation that an element is “can” perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchison, 69 USPQ 138.

Applicants may simply replace “can be” with “are” in order to show that the step is actually being performed.

As per claim 28:

In line 3, Applicants recite “a plurality of at least one of queries entered by the user...” Claim 28 recites “plurality”, and the claim also recites “at least one” which would be inconsistent with the “plurality” in the base case that only “one” was chosen. Since it is unclear which form Applicants intended, Applicants may simply choose to amend and clarify whether they intended for “a plurality of more than one” or simply “at least one.”

**\*\*All claims not specifically addressed above are rejected by virtue of their dependency.**

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nadia Khoshnoodi whose telephone number is (571) 272-3825. The examiner can normally be reached on M-F: 8:00-4:30.

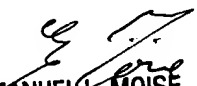
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Nadia Khoshnoodi  
Examiner  
Art Unit 2137  
4/15/2007

NK



EMMANUEL L. MOISE  
SUPERVISORY PATENT EXAMINER